

United States District Court

for the
Western District of New York



United States of America

v.

Case No. 18-MJ-1144

Carlos Bayon

Defendant

AMENDED CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about June 30, 2018, in the Western District of New York, the defendant, CARLOS BAYON, knowingly and willfully transmitted in interstate commerce, that is, by telephone call, from the State of New York to an individual in the State of Louisiana and to an individual in the State of Washington a communication which contained a threat to injure the person of another in violation of Title 18, United States Code, Section 875(c). Further, on or about June 30, 2018, in the Western District of New York, the defendant, CARLOS BAYON, threatened to assault and murder two federal officials, namely two Members of the United States Congress, with intent to impede, intimidate, and interfere with the federal officials while they were engaged in their official duties and to retaliate against said federal officials on account of the performance of their official duties, in violation of Title 18, United States Code, Section 115(a)(1)(B).

This Criminal Complaint is based on these facts:

- Continued on the attached sheet.

Complainant's signature

LAWRENCE ANYASO
SPECIAL AGENT
UNITED STATES CAPITOL POLICE

Printed name and title

Judge's signature

H. KENNETH SCHROEDER, Jr.
UNITED STATES MAGISTRATE JUDGE
Printed name and title

Sworn to before me and signed in my presence.

Date: August 3, 2018

City and State: Buffalo, New York

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, Lawrence Anyaso, being duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the United States Capitol Police (the "USCP"). I am currently assigned to the USCP Investigations Division, Threat Assessment Section. As a Special Agent assigned to the Threat Assessment Section, I have participated in numerous investigations into threats against members of Congress, including violations of Title 18, United States Code, Section 875(c) (Interstate Communication of a Threat) and Title 18, United States Code, Section 115 (Threatening or Injuring a Federal Official).

2. I have completed hundreds of hours of training in law enforcement investigation techniques, including the Criminal Investigator Training Program at the Federal Law Enforcement Training Center ("FLETC"); the USCP three-week Crime Scene Investigation course; and the two-week FLETC Internet Investigation Training program ("IITP"). The IITP course provided me with training in conducting investigations into on-line crimes which include the use of undercover computers, email accounts, and provided forensic tools used to examine electronic devices for evidence. In the course of my employment as a Special Agent with the USCP, I have received training regarding the application for and execution of both search and arrest warrants. In my current assignment,

I have participated in and conducted numerous investigations involving illegal activity including stalking and threatening communications, both locally and interstate.

3. This affidavit is made in support of a complaint charging CARLOS BAYON ("BAYON") with violations of Title 18, United States Code, Section 875(c), and Title 18, United States Code, Section 115(a)(1)(B). Title 18, United States Code, Section 875(c) provides:

Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years or both.

Title 18, United States Code, Section 115(a)(1)(B) provides, in relevant part:

(a)(1) Whoever ... (B) threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer ... with intent to impede, intimidate, or interfere with such official, judge, or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge or law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b).

4. The facts and information contained in this affidavit are based upon my training and experience, participation in threats investigations, personal knowledge, and observations during the course of this investigation, as well as the observations of other agents involved in this investigation. All observations not personally made by me were related to me by the individuals who made them or were conveyed to me by my review of records, documents, and other physical evidence obtained during the course of this investigation. This affidavit contains information necessary to support probable cause and is not intended to include each and every fact and matter observed by me or known to the government.

PROBABLE CAUSE

5. On July 2, 2018, the USCP Threat Assessment Section was contacted by a person identified for the purposes of this Affidavit as "Witness One." Witness One is a staff member in the Washington, D.C. office of a United States Congressman who, for the purposes of this Affidavit, will be referred to as "Congressman One." Witness One reported that a threatening voicemail was received by the Congressman's office in Louisiana on June 30, 2018, at approximately 6:29 p.m. (CST).

6. Witness One provided an email from a staff member, referred to for the purposes of this Affidavit as "Witness Two," in the Congressman's Louisiana office who received the voicemail. Witness Two described the caller as "sounding to be late 40s with a Hispanic accent" and provided information so that USCP could retrieve the voicemail.

7. I was able to record and review the voicemail left on the phone in Congressman One's Louisiana office. The voicemail stated:

Hey listen, this message is for you and the people that sent you there. You are taking ours, we are taking yours. Anytime, anywhere. We know where they are. We are not going to feed them sandwiches, we are going to feed them lead. Make no mistake you will pay. Ojo por ojo, diente por diente.¹ That is our law and we are the majority. Have a good day.

8. I obtained exigent business information from AT&T for incoming phone calls to Congressman One's Louisiana office, which revealed that the only number that called around the time of the voicemail was 716-830-0194.

¹ This is Spanish for "an eye for an eye, a tooth for a tooth."

9. I conducted a search in the law enforcement database ACCURINT for 716-830-0194. It revealed that the phone number 716-830-0194 is assigned to a "Carlos Bayon" with a date of birth XX-XX-1955 and an address listed as P.O. Box 71 Getzville, NY. The search results also revealed that the phone service provider was Sprint.

10. I called the phone number and listened to the voicemail greeting. The voice on the greeting sounded the same as the voice that left the threatening voicemail on Congressman One's Louisiana office phone.

11. On July 5, 2018, USCP was contacted by a staff member, referred to for the purposes of this Affidavit as Witness Three, in the Spokane, Washington office of another United State Congressman, referred to for the purposes of this Affidavit as "Congressman Two." Witness Three reported a voicemail that was left on the Congressman's office voicemail on June 30, 2018, at approximately 4:37 p.m. (PST).

12. Witness Three provided a copy of the voicemail to me. I listened to the voicemail. It stated:

Yeah, listen. This message is for you and for the people that sent you there. You're taking ours. We're taking yours. Anytime, anywhere. We know where they are. We are not going to feed them sandwiches. We are going to feed them lead. Make no mistake. You will pay. Ojo por ojo, diente por diente. That is our law and we are the majority. Have a good day.

13. The voice that left this voicemail sounded the same as the voice on the voicemail from U.S. Congressman One's office.

14. On or about July 23, 2018, I received business records from Sprint which showed that the phone number 716-830-0194 is for a cell phone. The account billing address is All Garage Door and Service Inc., P.O. Box 71 Getzville, NY 14068.

15. The account billing address shown in the Sprint records is the same ACCURINT lists for BAYON. ACCURINT also indicates that BAYON is the Chief Executive Officer of All Garage Door and Service Inc.

16. Further review of Sprint business records revealed that calls were made from Sprint phone number 716-830-0194 to the offices of Congressman One and Congressman Two on June 30, 2018.

17. The Sprint records further revealed that the calls were made using the cellular network in the area of Buffalo, New York which is within the Western District of New York.

18. On July 26, 2018, I spoke to Investigator Colton with the University of Buffalo police who advised that in or about April 2018 his agency received a harassment complaint relating to BAYON.

19. Investigator Colton advised that at the time of the April 2018 report, BAYON was registered to take classes at the University and that he had a vehicle with New York State license plate 76697ME. I conducted an NCIC check of the New York State license plate number 76697ME. The check showed the vehicle was Chevrolet van that was registered to

BAYON and listed the address as P.O. Box 71 Getzville, NY 14068. Investigator Colton provided the number they had listed for BAYON as 716-830-0194, which is the same number used to call in the threatening voicemails.

20. Investigator Colton also brought to my attention a Spectrum News story concerning e-cigarette smoking at UB that aired on April 23, 2018. The story contained a brief on-camera interview of an older Hispanic male identified as "Carlos Bayon." I obtained and watched a video recording of the Spectrum News story. The man identified as Carlos Bayon speaks on camera for approximately 15 seconds. His voice sounds identical to the voice heard on the voicemails left for Congressman One and Congressman Two.

21. On August 1, 2018, Special Agents from USCP and FBI executed a search warrant at the residence of BAYON in Grand Island, New York. The search warrant had been authorized the day before by the Honorable Jeremiah J. McCarthy, United States Magistrate Judge.

22. When the Agents executed the search warrant, BAYON was present in his residence. Agents recovered from BAYON's residence approximately 150 rounds of 7.62 rifle ammunition and approximately 50 rounds of shotgun ammunition. The Agents also found a receipt from 2004 relating to the purchase of an SKS rifle. An SKS rifle is a high-powered assault rifle. The 150 rounds of 7.62 ammunition are the type of ammunition fired by an SKS rifle. The Agents also found a receipt from 1987 for the purchase a .38 caliber revolver.

Despite the presence of the ammunition and receipts, the Agents were not able to find any firearms inside the residence.

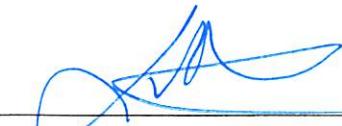
23. The Agents also found in the residence a number of books concerning the use of firearms and explosives, including the following:

How to create foolproof new identity
Ragnar's homemade detonators
Homemade C-4
New & Improved C-4
Middle Eastern Terrorist Bomb Designs
Poor man's TNT
CIA field manual for explosives prep
Disguise techniques
How to circumvent security alarms
Silent But Deadly: homemade silencers
Hit Man: technical manual
Expedient B&E: circumventing alarms
Improvised radio detonation techniques
Homemade Semtex
Secrets of a Super Hacker
How to make disposable silencers
How to build practical firearm suppressors

CONCLUSION

24. Based on the foregoing, I respectfully submit there is probable cause to believe that, on or about June 30, 2018, BAYON knowingly and willfully transmitted in interstate commerce threats to injure another person in violation of Title 18, United States Code, Section 875(c). Further, I respectfully submit there is probable cause to believe that, on or about June 30, 2018, BAYON threatened to assault and murder a United States official with intent to impede, intimidate, or interfere with such official while engaged in the performance of

official duties, or with intent to retaliate against such official on account of the performance of official duties in violation of Title 18, United States Code, Section 115(a)(1)(B).



LAWRENCE ANYASO
Special Agent
United States Capitol Police

Sworn and subscribed to before
me this 3rd day of August, 2018.



H. KENNETH SCHROEDER, Jr.
United States Magistrate Judge